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Message Text

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ACTION DLOS-09

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EUR-12 /186 W
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TO SECSTATE WASHDC IMMEDIATE 8789
LOS COLLECTIVE
AMEMBASSY KATHMANDU
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E.O. 11652:N/A
TAGS: PLOS
SUBJECT: LOS - COASTAL STATES PROPOSAL ON ARTICLE 296

1. AT APRIL 20, NG-5 MEETING, MEXICO, ON BEHALF OF THE COASTAL STATES, SUBMITTED A COMPLETE REVISION OF ARTICLE 296. FULL TEXT FOLLOWS:

BEGIN QUOTE: 1) WITHOUT PREJUDICE TO THE OBLIGATIONS ARISING UNDER SECTION 1, DISPUTES RELATING TO THE EXERCISE BY A COASTAL STATE OF RIGHTS OR JURISDICTION PROVIDED FOR IN THE PRESENT CONVENTION SHALL BE SUBJECT TO THE PROCEDURES SPECIFIED IN THE PRESENT CONVENTION ONLY IN THE FOLLOWING CASES:

A) WHEN IT IS ALLEGED THAT A COASTAL STATE HAS ACTED IN CONTRAVENTION OF THE PROVISIONS OF THE PRESENT CONVENTION IN REGARD TO THE FREEDOMS AND RIGHTS OF NAVI-
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GATION OR OVERFLIGHT OR OF THE LAYING OF SUBMARINE CABLES AND PIPELINES AND OTHER INTERNATIONALLY LAWFUL USES OF THE SEA SPECIFIED IN PARAGRAPH 1 OF ARTICLE 58; OR

B) WHEN IT IS ALLEGED THAT ANY STATE IN EXERCISING THE AFOREMENTIONED FREEDOMS, RIGHTS OR USES HAS ACTED IN CONTRAVENTION OF THE PROVISIONS OF THE PRESENT CONVENTION

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OR OF LAWS OR REGULATIONS ESTABLISHED BY THE COASTAL STATE IN CONFORMITY WITH THE PRESENT CONVENTION AND OTHER RULES OF INTERNATIONAL LAW NOT INCOMPATIBLE WITH THE PRESENT CONVENTION; OR

C) WHEN IT IS ALLEGED THAT A COASTAL STATE HAS ACTED IN CONTRAVENTION OF SPECIFIED INTERNATIONAL RULES AND STANDARDS FOR THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT WHICH ARE APPLICABLE TO THE COASTAL STATE AND WHICH HAVE BEEN ESTABLISHED BY THE PRESENT CONVENTION OR BY A COMPETENT INTERNATIONAL ORGANIZATION OR DIPLOMATIC CONFERENCE ACTING IN ACCORDANCE WITH THE PRESENT CONVENTION.

2. DISPUTES RELATING TO CASES REFERRED TO IN PARAGRAPH 1 ABOVE MAY BE SUBMITTED TO THE PROCEDURES PROVIDED FOR IN THIS SECTION ONLY WHEN THE FOLLOWING CONDITIONS HAVE BEEN COMPLIED WITH:

(A) THAT IN ANY DISPUTE TO WHICH THE PROVISIONS OF THIS ARTICLE APPLY, THE COURT OR TRIBUNAL SHALL NOT CALL UPON THE OTHER PARTY OR PARTIES TO RESPOND UNTIL THE PARTY WHICH HAS SUBMITTED THE DISPUTE HAS ESTABLISHED PRIMA FACIE THAT THE CLAIM IS WELL FOUNDED;

(B) THAT SUCH COURT OR TRIBUNAL SHALL NOT ENTERTAIN
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ANY APPLICATION WHICH IN ITS OPINION CONSTITUTES AN ABUSE OF LEGAL PROCESS OR IS FRIVOLOUS OR VEXATIOUS; AND
(C) THAT SUCH COURT OR TRIBUNAL SHALL IMMEDIATELY NOTIFY THE OTHER PARTY TO THE DISPUTE THAT THE DISPUTE HAS BEEN SUBMITTED AND SUCH PARTY SHALL BE ENTITLED, IF IT SO DESIRES, TO PRESENT OBJECTIONS TO THE ENTERTAINMENT OF THE APPLICATION.

3. NO DISPUTE RELATING TO THE INTERPRETATION OR APPLICATION OF THE PROVISIONS OF THE PRESENT CONVENTION WITH REGARD TO MARINE SCIENTIFIC RESEARCH SHALL BE BROUGHT BEFORE SUCH COURT OR TRIBUNAL UNLESS THE CONDITIONS SPECIFIED IN PARAGRAPH 2 HAVE BEEN FULFILLED AND PROVIDED THAT THE COASTAL STATE SHALL NOT BE OBLIGED TO SUBMIT TO SUCH A SETTLEMENT ANY DISPUTE ARISING OUT OF:

(A) THE EXERCISE BY THE COASTAL STATE OF A RIGHT OR DISCRETION IN ACCORDANCE WITH ARTICLE 247; OR

(B) THE DECISION BY THE COASTAL STATE TO TERMINATE A RESEARCH PROJECT IN ACCORDANCE WITH ARTICLE 254.
4. ANY DISPUTE EXCLUDED BY THE PREVIOUS PARAGRAPHS MAY

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BE SUBMITTED TO THE PROCEDURES SPECIFIED IN SECTION 2
ONLY BY AGREEMENT OF THE PARTIES TO SUCH DISPUTE. END
QUOTE. RICHARDSON

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